

UNITED STATES DISTRICT COURT

SOUTHERN

District of

MISSISSIPPI

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

(For Organizational Defendants)

MT. FUJI RESTAURANTS, INC.
d/b/a Stix Restaurant

CASE NUMBER: 3:09cr63WHB-LRA-001

Dewitt L. Fortenberry Jr., POB 14167, Jackson, MS 39236, (601) 351-8948

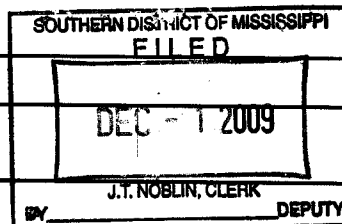
Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

☒ pleaded guilty to count(s) single-count Bill of Information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.



The organizational defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 U.S.C. § 1324(a)(1)(A)(v)(I)	Conspiracy to Harbor Illegal Aliens	March 31, 2008	1

The defendant organization is sentenced as provided in pages 2 through 6 of this judgment.

☐ The defendant organization has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's

Federal Employer I.D. No.: 20-0744562

Defendant Organization's Principal Business Address:

109 Marketplace Lane
Flowood, MS 39232

November 19, 2009

Date of Imposition of Judgment

Signature of Judge

William H. Barbour, Jr.

Senior U.S. District Court Judge

Name of Judge

Title of Judge

Date

Defendant Organization's Mailing Address:

1952 Chandaway Drive
Pelham, AL 35124

DEFENDANT ORGANIZATION: MT. FUJI RESTAURANTS, INC. d/b/a Stix Restaurant
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PROBATION

The defendant organization is hereby sentenced to probation for a term of : **two (2) years.**

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions below or on the attached page (if indicated below).

SEE SPECIAL CONDITIONS OF SUPERVISION ON PAGE 3 OF THIS JUDGMENT ORDER

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

DEFENDANT ORGANIZATION: MT. FUJI RESTAURANTS, INC. d/b/a Stix Restaurant
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SPECIAL CONDITIONS OF SUPERVISION

The defendant shall effect an immigration compliance program, to include: (1) Using the Department of Homeland Security's Internet-based system known as E-Verify to electronically verify the employment eligibility of all newly hired employees; (2) Establish within 60 days of the execution of the Plea Agreement an internal training program to instruct employees on how to: properly and legally complete I-9 Forms (Employee Eligibility Verification Forms); detect fraudulent use of documents in the I-9 Form process; and use the E-Verify system; and (3) Require the I-9 Form and E-Verify process be conducted only by individuals who have received training pursuant to subparagraph (2), and simultaneously establish a supervisory review process to ensure that employees trained pursuant to subparagraph (2) comply with this training in completing the I-9 Forms, detecting fraudulent documents, and using the E-verify system.

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 400.00	\$	\$

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>

TOTALS	\$ 0.00	\$ 0.00
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- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ C or ☐ D below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Special instructions regarding the payment of criminal monetary penalties:

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☒ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:
PROPERTY TO BE FORFEITED IS LISTED ON PAGE 6 OF THIS JUDGMENT ORDER.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

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FORFEITED PROPERTY

The defendant is ordered to forfeit within sixty (60) days, the sum of \$52,017.00 in U.S. currency, seized from Stix Restaurant in Flowood, Mississippi; all funds (\$103,464.88) contained in or seized from Regions Bank account number 0020015275 held in the name of Mt. Fuji Restaurant, d/b/a Stix Restaurant, and/or Gin Hsing "David" Chen; all funds (\$12,385.49) contained in or seized from Regions Bank account number 0020015267 held in the name of Mt. Fuji Restaurant, d/b/a Stix Restaurant and/or Gin Hsing "David" Chen; and all funds (\$50,304.10) contained in or seized from Regions Bank account number 0067279880 held in the name of Mt. Fuji Restaurant, d/b/a Stix Restaurant and/or Gin Hsing "David" Chen.